



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/085,547	02/27/2002	David F. Bantz	YOR920010667US1	9848
54105	7590	09/06/2007		
DUKE W. YEE YEE & ASSOCIATES, P.C. P.O. BOX 802333 DALLAS, TX 75380			EXAMINER ZHEN, LI B	
			ART UNIT 2194	PAPER NUMBER
			MAIL DATE 09/06/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/085,547

**Applicant(s)**

BANTZ ET AL.

**Examiner**

Li B. Zhen

**Art Unit**

2194

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-47,49 and 50 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-47,49 and 50 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

WILLIAM THOMSON  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. Claims 1, 2, 4-47, 49 and 50 are pending in the application.
2. In view of the Appeal Brief filed on 09/15/2006, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below. To avoid abandonment of the application, appellant must exercise one of the following two options:
  - (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
  - (2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein

Art Unit: 2194

were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

**5. Claims 1, 2, 4-47, 49 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,785,805 to House et al. [hereinafter House] in view of U.S. Patent No. 6,775,829 to Kroening [previously cited].**

6. As to claim 1, House teaches the invention substantially as claimed including a method for loading software onto a computer [col. 20, lines 25 – 50], the method comprising the steps:

receiving software requirements [configuration options; col. 14, lines 16 – 37 and col. 22, lines 16 – 50] for a given computer system [build-to-order system; col. 10, lines 40 – 65] from a plurality of users [an organization such as a corporation may pre-define different customized or tailored component menus that are password dependent, so that access to different component options, price limits, etc. may be provided to different employees, consultants or groups of same by entering different passwords; col. 14, lines 36 – 60 and col. 12, lines 29 – 46];

determining (a) a plurality of software components that currently exist and [pre-existing software components; col. 21, lines 36 – 56] that will fulfill the software requirements while addressing constraints and affinities between said plurality of

Art Unit: 2194

software components [pre-existing and/or now-existing custom-engineered hardware, software, and documentation components may be assembled by manufacturing personnel and/or automated equipment to create an integrated TMA system that fulfills the requirements; col. 16, lines 13 – 28 and col. 19, lines 53 – 67] and (b) a respective plurality of configuration options [configuration options; col. 12, line 58 – col. 13, line 22] that reflect current best practices with regard to said plurality of software components [predefined sub-configuration of other hardware components, pre-set combinations or sub-combinations of two or more hardware/software component types for inclusion in the integrated system optionally with other individual hardware/software components, operating features or characteristics of the integrated system, and/or hardware/software features and/or components that require custom engineering; col. col. 12, line 58 – col. 13, line 22]. House does not teach generating a disk image containing said plurality software components configured according to said respective plurality of configuration options.

However, Kroening teaches deployment of data processing systems with a specific set of software under the centralized control of a graphical user interface [bill of materials includes a customer's selection of a desired software configuration for a particular computing system; col. 5, lines 15 – 31 and Figs. 3A-D] and generating a disk image containing said plurality software components configured according to said respective plurality of configuration options [image builder 20 builds the image 600 in software according to a desired software configuration; col. 11, lines 50 – 59].

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the invention of House to incorporate the features of generating a disk image containing said plurality software components configured according to said respective plurality of configuration options because this allows a hard drive to be configured with an image of the desired software configuration before installation into a computer system [col. 8, lines 37 – 55 of Kroening] and provides levels of granularity wherein incremental changes can be made to a system without having to perform major work by redefining the baseline [col. 12, lines 33 – 45 of Kroening].

7. As to claim 2, House teaches wherein said determining step applies rules to the software requirements to identify software components that comply with the software requirements [col. 18, lines 25 – 44].

8. As to claim 4, House teaches wherein the rules include rules mapping a software requirement into a corresponding software component [col. 20, lines 50 – 65].

9. As to claim 5, House as modified teaches wherein the rules include rules specifying when particular versions of a particular software component are to be utilized [col. 7, lines 23 – 34 of Kroening].

Art Unit: 2194

10. As to claim 6, House teaches wherein the rules include rules specifying installation options regarding a particular software component [col. 20, lines 25 – 50].
11. As to claim 7, House as modified teaches wherein the rules include rules specifying how to test a particular software component [col. 12, lines 1 – 15 of Kroening].
12. As to claim 8, House teaches testing the disk image [testing 134; col. 15, line 65 – col. 16, line 14].
13. As to claim 9, House teaches wherein testing the disk image includes verifying that said plurality of software components complies with the software requirements [col. 17, lines 43 – 60].
14. As to claim 10, House teaches wherein testing the disk image includes verifying that said plurality of software components complies with at least one rule [col. 17, lines 43 – 60].
15. As to claim 11, House as modified teaches generating a difference image that represents differences between the disk image and another existing disk image, whereby the another existing disk image may be updated to match the disk image by

Art Unit: 2194

applying the difference image to the another existing disk image [col. 12, lines 33 – 45 of Kroening].

16. As to claim 12, House teaches the software requirements are received through a network that includes the Internet [col. 22, line 62 – col. 23, line 9].

17. As to claim 13, House teaches wherein the software requirements can be received in terms of customer needs rather than specific software components [col. 9, lines 13 – 37].

18. As to claim 14, House teaches the requirements are represented in a structured format [col. 24, lines 11 – 22].

19. As to claims 15, House teaches the structured format is Extensible Markup Language (XML) [col. 24, lines 11 – 22].

20. As to claim 49, House as modified teaches storing said disk image on a computer-readable and distributing said computer-readable [col. 8, lines 37 – 55 of Kroening] media to a client [col. 8, lines 20 – 55 of House].



21. As to claim 16, House as modified teaches a method for creating a customized disk image for loading software onto a computer, the method comprising the computer-implemented steps:

    parsing a plurality of inputs regarding a desired computer system to extract specifications regarding software [col. 30, line 51 – col. 31, line 9 and col. 14, lines 16 – 37 and col. 22, lines 16 – 50 of House];

    evaluating a plurality of rules with respect to the plurality of inputs to derive a set of software components conforming to the specifications [col. 18, lines 25 – 44 of House], said set of software components being chosen from existing software components [pre-existing software components; col. 21, lines 36 – 56 of House];

    evaluating a second plurality of rules with respect to the plurality of inputs to derive a set of configuration options conforming to at least the specifications [col. 20, lines 50 – 65 of House];

    storing each software component from the set of software components on a storage device [col. 19, lines 35 – 54 of House];

    configuring each software component stored on the storage device in accordance to the set of configuration options [col. 11, lines 50 – 59 of Kroening]; and

    generating a disk image from contents of the storage device [col. 11, lines 50 – 5 of Kroening].

22. As to claim 17, House as modified teaches the inputs are requests from hypertext browsers [col. 18, line 57 – col. 19, line 12].

23. As to claim 18, House teaches the inputs are XML documents [col. 24, lines 11 – 22].

24. As to claims 19 and 20, these are product claims that correspond to method claims 1 and 2 and are rejected for the same reasons set forth in the rejections of claims 1 and 2.

25. As to claim 21, House teaches wherein the rules are stored in a database [col. 11, lines 40 – 55].

26. As to claims 22-32, the rejection of claim 21 are incorporated and are rejected for the same reason set forth in the rejection of claims 4-14 respectfully.

27. As to claim 33, this is rejected for the same reasons set forth in the rejection of claim 15.

28. As to claims 34-35, these are data processing system claims that correspond to method claims 1-2 and are rejected for the same reasons set forth in the rejections of claims 1-2.

Art Unit: 2194

29. As to claim 36, House teaches wherein the rules are stored in a database [col. 11, lines 40 – 55].

30. As to claims 37-47, the rejection of claim 36 are incorporated and are rejected for the same reasons set forth in the rejections of claims 4-14 respectfully.

31. As to claim 50, House as modified teaches instructions for storing said disk image on a computer-readable media [col. 8, lines 37 – 55 of Kroening], wherein said computer-readable media can be distributed to a client [col. 8, lines 20 – 55 of House].

#### **CONTACT INFORMATION**

32. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Li B. Zhen whose telephone number is (571) 272-3768.

The examiner can normally be reached on Mon - Fri, 8:30am - 5pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Thomson can be reached on 571-272-3718. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2194

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Li B. Zhen  
Examiner  
Art Unit 2194

LBZ

  
**WILLIAM THOMSON**  
SUPERVISORY PATENT EXAMINER  
TECHNICAL CENTER 2100